

**ENVIRONMENTAL QUALITY COUNCIL  
LAND USE/ENVIRONMENTAL TRENDS SUBCOMMITTEE**

March 23,2000

Meeting Minutes

Draft: April 26,2000

Approved: May 4, 2000

**EQC MEMBERS PRESENT**

Mr. Jerry Sorensen\*

Ms. Julia Page\*

Sen. Spook Stang\*

Rep. Bill Tash

\*Subcommittee Member

**SUBCOMMITTEE MEMBERS EXCUSED**

None

**STAFF MEMBERS PRESENT**

Larry Mitchell

Mary Vandebosch

Judy Keintz, Secretary

Visitors' list (Attachment 1)

Agenda ([Attachment 3](#))

**SUBCOMMITTEE ACTION**

- ▶ Approved a joint meeting of the Water Policy and Land Use/Environmental Trends Subcommittees to address the environmental trends issue. The date will be set at a later time.
- ▶ Recommended that interested parties be invited to the next subcommittee meeting to discuss whether or not there is a need for additional funding for development and implementation of growth policies.
- ▶ Reconsidered the decision made at the previous meeting to recommend to the full Council that a letter be provided to the Department of Commerce in support of its

proposal to place an amendment into the Governor's budget that would change the county land planning fund program to a competitive grant program for counties and cities.

## **I CALL TO ORDER AND ROLL CALL**

MR. SORENSEN called the meeting to order at 8:00 a.m. Roll call was noted; all members were present ([Attachment 2](#)).

## **II MONTANA SMART GROWTH COALITION**

**Dennis Glick, Montana Smart Growth Coalition**, explained that the coalition had been working with focus groups in the Bitterroot Valley, Missoula County, the Flathead Indian Reservation, Kalispell, Jefferson County, Madison County, Bozeman and Billings. **Mr. Glick** works with the Greater Yellowstone Coalition. The Coalition is involved with conservation issues in the area including and surrounding Yellowstone National Park. This is one of the fastest growing rural regions in the country. Communities have been faced with over a 30% growth rate in the last ten years. The issues include the loss of farm and ranch land, affordable housing, rising taxes needed to provide services, transportation issues, etc. Each community was struggling with different aspects of the growth problems in isolation without the benefit of learning from the lessons other communities had learned. A Smart Growth conference was held in November of 1998. They expected approximately 150 people but 400 people were in attendance. The attendees included elected officials, community activists, professionals in the field of planning, farmers, and ranchers. A steering committee was created to establish the Montana Smart Growth Coalition. Problems in other states were reviewed and the group saw an opportunity for Montana to avoid a lot of the problems other states had experienced. The coalition allowed a diversity of organizations to join. Currently there are 28 member groups. They are currently based in Helena with most of the work being done by volunteers.

**Stuart Meck, American Planning Association (APA)**, remarked that the APA is a national organization of 31,000 planners and planning officials. They have been in existence since 1917. Their research department has been in existence since 1949. The department contracts research for state and federal agencies as well as non-profit entities and foundations. Approximately five years ago they began a "Growing Smart" project. This project was intended to draft the next generation of model planning and zoning legislation for the United States. Most of the planning statutes in the country were originally based on two model acts that were drafted by an advisory committee of the U.S. Department of Commerce in the 1920s. The majority of states are using these laws. He provided a brochure, [Exhibit 1](#). The model legislation is on APA's website, [www.planning.org](http://www.planning.org).

The Montana Smart Growth Coalition retained the APA to conduct an evaluation of the planning statutes in Montana. They are using the material developed by the EQC Growth Subcommittee (during the 1997-98 interim) and have reviewed the minutes of the Subcommittee meetings.

This is one of the elements of their efforts. The first part of their effort involved a survey and evaluation of the state statutes as well as a review of the opinions of the Montana Supreme Court and the Attorney General that relate to the interpretation of the planning and zoning laws. A series of focus groups have been held recently and they will also be administering a questionnaire later this month to approximately 100 people who were not able to attend the focus group meetings. A draft report will be prepared and be available from the Montana Smart Growth Coalition. This report will be available for public review in late June. A final version should be available several months later.

The focus groups ranged from 8 to 15 attendees. They have been asking a group of questions that evolved, in part, from the examination of the minutes of the EQC Growth Subcommittee. ([Exhibit 2.](#)) The questions include the utility of the growth policy and whether the growth policy language is useful to local governments; the operation of the subdivision laws; whether or not municipalities should allow the protest provision authorized by statute; whether or not the state should have a statute authorizing impact fees; and the use of incentives. The groups have been asked to make suggestions and one of the issues that comes up quite often is funding for the preparation of growth policies. Discussions have included many issues such as development agreements; moratoria; clearer language in the statutes in respect to enforcement-especially for zoning; and authorization of professional hearings examiners to replace the Board of Zoning Appeals. An opinion expressed at almost every session is that planning statutes should not be changed because the Legislature may limit the power of local governments and make it difficult for them to manage their growth.

MR. SORENSEN questioned how the focus groups had been selected. **Mr. Glick** remarked that they wanted to bring people together who had been dealing with growth issues. A typical group included elected officials, planning board members, planners, developers, and community activists. **Mr. Meck** added that attendance included county and municipal attorneys, a city engineer and farmers and ranchers. A representative from the Homebuilders Association also attended.

**Mr. Meck** remarked that it is very important for the state to establish statewide planning goals. States which have done so include Maryland, Oregon, Washington, Florida, Hawaii, and New Jersey. In some states, the planning goals are required to be reflected in local plans. The Montana focus groups noted that this was important. There was a concern that the state planning goals would be so homogenized that they would be useless. Others believed that it would be useful to have a statewide vision on planning. **Mr. Glick** added that the differences between eastern and western Montana were noted quite frequently.

**Mr. Meck** stated that there was interest in having the planning mechanism resolve conflicts between state plans and local plans. There are a number of states that do this. In Rhode Island,

Washington, and Oregon, once the local government adopts a plan which follows the standards in statute, it becomes binding on state agencies in certain ways.

REP. TASH questioned whether the APA facilitated any finding. He asked about joint ventures to keep landowners on the land and to educate people in the area of conservation easements. **Mr. Meck** explained that they had been contacted by a foundation to evaluate the best places for them **3** to provide grants to non-profit associations.

SEN. STANG questioned how other states funded planning. **Mr. Meck** explained that generally the states that required the preparation of a plan that met state standards within a certain period of time, have used general fund money to provide grants for the initial preparation of the plan. Some states authorize real property taxes to pay for planning. Other states use the real property transfer tax. Some local governments pay for a large portion of their land development controls through permit fees. New Jersey passed a bond issue making funds available for preservation of open space.

#### **Public Comment**

**Connie Wardell, Billings**, questioned whether the uniform building code issue, in regard to inner city building, was included in the discussions. **Mr. Meck** stated that New Jersey has addressed this issue and Maryland has pending legislation on the same. The Maryland State Office of Planning website addresses the topic.

**SEN. JOHN BOHLINGER, SD 7**, requested more information regarding the use of a realty transfer tax.

**Al Lidler (?-did not sign in), Real Estate Broker**, remarked that realtors are opposed to a realty transfer tax. Montana has the lowest income per capita in the nation and a poor tax structure for businesses. The real estate industry is market driven. There are misunderstandings about growth and development. At a recent meeting, they found that seven out of thirteen issues the people found important required finding. However, the finding issue was rated last in importance. The eight major boards of realtors in the state are very interested and will be involved in the smart growth discussions.

**Tom Llewellyn, Billings Realtor**, noted that realtors and builders were not contacted to attend the focus groups of the Montana Smart Growth Coalition. **Mr. Glick** noted that there have been attempts to meet with the Realtors Association. **Mr. Meck** stated that they would like to have more input from builders and developers.

**Ms. Wardell** noted that on a \$100,000 sale a realty transfer tax may be approximately \$110. This should not slow down the sale of property.

**Kerwin Jensen, Yellowstone County Planning Department**, remarked that half of their budget is funded through federal highway funds. The property tax revenue equates to each citizen in the county paying \$1.25 for planning services. The West Billings master plan should be presented to the public in April. This is their highest growth area. The cost for the consultant they have hired is three times over the budget. He further noted that unless there is money to implement the plan, the plan will not be useful.

**Ray Mehrer, Home Builders Assoc.**, stated that it is important to be cautious of bad funding policies. The inheritance tax and the capital gains tax are anti-growth taxes.

MS. PAGE questioned whether developing closer to towns had been discussed in the focus groups. **Mr. Meck** remarked that in the Bozeman meeting there was mention that the Department of Commerce should be publishing model smart growth ordinances that would provide examples of mixed use infill development. He further noted that this type of development requires a lot of effort.

### **III ENVIRONMENTAL TRENDS**

MR. MITCHELL recapped that the Subcommittee had contacted four agencies and asked whether or not environmental trends could be incorporated into the enforcement and compliance document which is prepared for the EQC every two years. The responses have been that agencies have not developed environmental indicators by which they can quantify or identify the condition of the environment. The agencies did not offer recommendations on how this could be accomplished. General information regarding the type of data collected was provided. The EQC Water Policy Subcommittee has requested the same information for water quality. It has been suggested that the EQC Land Use/Environmental Trends Subcommittee and the EQC Water Policy Subcommittee hold a joint meeting on this issue.

MR. SORENSEN added that the state agencies could be invited to the joint subcommittee meeting. It is important that the state agencies address environmental trends in a pro-active manner.

SEN. STANG noted that the state agencies may not have the time or funding to devote to this project. Along with funding growth planning, it may be necessary for the agencies to have the proper funding to address environmental trends.

MS. PAGE noted that the information should be integral to the work of the agencies. **Jean Marie Souvigney, Livingston**, remarked that the earlier report identified areas where information is difficult to obtain or was not consistent over time and thus was not useful. It might be helpful to look at the federal agencies that are collecting information. Most state agencies would know about the federal efforts in collecting data.

REP. TASH added that a good source of information would be the Natural Resources Conservation Service (NRCS). As a member of the EQC Water Policy Subcommittee, he stated that the Water Policy Subcommittee is interested in holding a joint meeting.

The Subcommittees approved the convening of a joint meeting of the Water Policy and Land Use/Environmental Trends Subcommittees to address the environmental trends issue. State agency personnel would be requested to attend the first part of the meeting. The second part of the meeting would focus on setting out a plan to address the issue. The date will be set at a later time.

**Betty Whiting, Montana Association of Churches**, stated that the environmental trends report has been very valuable. She encouraged the Subcommittee to continue updating this data.

#### **IV      OPTIONS TO ADDRESS MISSOULA COUNTY CONCERNS REGARDING ADOPTION OF ZONING REGULATIONS UNDER SB 97**

MR. SORENSEN recapped that when the Subcommittee met with Missoula County representatives, they expressed their interest in preparing neighborhood plans in accordance with SB 97 and then proceeding with zoning. Upon further reviewing the law, it has been determined that the law requires that a growth policy cover the entire jurisdiction. It encourages neighborhood planning, but this is under an umbrella.

MS. VANDENBOSCH provided a copy of a memo she prepared on this topic, [Exhibit 3](#). She reviewed the information and the options presented in the memo.

MR. SORENSEN noted that, during the legislative session, the Montana Association of Realtors raised a concern that allowing neighborhood plans to stand on their own would result in areas of exclusive zoning rather than a comprehensive plan which considered the characteristics of the county. He stated that Missoula County needed to update their 1975 plan.

SEN. STANG stated that if other counties had trouble with the date then this is something that could be considered during a future legislative session.

MR. SORENSEN requested that a letter be prepared letter to be sent to Missoula County encouraging them to update their current plan to meet the requirements of a growth policy. The letter should state that the Subcommittee is working to find additional state funding for growth policies. He indicated his willingness to meet with Missoula County to help them to determine what needs to be done.

## **V      FUNDING FOR DEVELOPMENT AND IMPLEMENTATION OF GROWTH POLICIES**

MS. VANDENBOSCH provided a memo on this topic, [Exhibit 4](#). She noted that letters had been sent to the Homebuilders Association, the Realtors Association, the League of Cities and Towns, MACo, and the Montana Smart Growth Coalition.

MS. VANDENBOSCH stated that she spoke with Margaret Morgan from the Montana Association of Realtors. They did not support or oppose the bed tax as a source of funding and would not oppose it. Their position is the same as it was when they commented on the draft report last interim:

While we have not made any decisions on this option at this time, we would oppose the use of a real estate transfer tax for this purpose. Any planning that is done benefits the entire community, not just those who transfer real estate. Thus, any costs for this planning should come from the community as a whole, not just those who may wish to buy or sell property.

The Homebuilders Association and the League of Cities and Towns will be providing responses at a later date. When Ms. Vandembosch met with the MACo Land Use Committee, the members present stated that funding for growth policies was not a priority for them. They did not support converting the automatic grant program to counties to a competing grant program. They expressed concerns that some of the smaller counties relied on these funds.

She provided a letter from the Montana Smart Growth Coalition, [Exhibit 5](#). The Coalition will be addressing this issue at their March 25th meeting.

MS. VANDENBOSCH reviewed the memo which included several steps that could be taken by the subcommittee.

The Subcommittee agreed that it is important to monitor the CDBG technical assistance grant process to determine if demand is greater than supply for planning grants.

MS. PAGE noted that she was interested in attending the Montana Growth Policy Forum.

MR. SORENSEN suggested meeting with the MACo Land Use Subcommittee.

**Motion/Vote: SEN. STANG MOVED TO INVITE INTERESTED PARTIES TO THE NEXT SUBCOMMITTEE MEETING TO DISCUSS WHETHER OR NOT THERE IS A NEED FOR ADDITIONAL FUNDING FOR GROWTH POLICIES. THE MOTION CARRIED.**

REP. TASH requested that the conservation districts be included as interested parties to this issue.

MS. VANDENBOSCH explained that the Department of Commerce is no longer pursuing the conversion of the current county land planning program to a competitive grant program due to the feedback they have received from MACo.

**Motion/Vote: SEN. STANG MOVED THAT THE SUBCOMMITTEE RECONSIDER THEIR DECISION MADE AT THE PREVIOUS MEETING TO RECOMMEND TO THE FULL COUNCIL THAT A LETTER BE PROVIDED TO THE DEPARTMENT OF COMMERCE IN SUPPORT OF THEIR PROPOSAL TO PLACE AN AMENDMENT INTO THE GOVERNOR'S BUDGET THAT WOULD ADDRESS FUNDING GROWTH POLICIES IN THE STATE. THE MOTION CARRIED.**

## **VI     BUSINESS**

### **►       Adoption of Minutes**

**Motion/Vote: SEN. STANG MOVED THAT THE MINUTES OF THE JANUARY 21, 2000 LAND USE/ENVIRONMENTAL TRENDS SUBCOMMITTEE MEETING BE APPROVED AS WRITTEN. THE MOTION CARRIED UNANIMOUSLY.**

## **VII    ADJOURNMENT**

There being no further business, the meeting was adjourned.